



**U.S. Citizenship
and Immigration
Services**

**Non-Precedent Decision of the
Administrative Appeals Office**

In Re: 33362220

Date: SEP. 4, 2024

Appeal of Texas Service Center Decision

Form I-140, Immigrant Petition for Alien Workers (Extraordinary Ability)

The Petitioner seeks to classify himself as an individual of extraordinary ability in business. *See* Immigration and Nationality Act (the Act) section 203(b)(1)(A), 8 U.S.C. § 1153(b)(1)(A). This first preference classification makes immigrant visas available to those who can demonstrate their extraordinary ability through sustained national or international acclaim and whose achievements have been recognized in their field through extensive documentation.

The Director of the Texas Service Center denied the petition, concluding that the record did not establish either that the Petitioner received a one-time achievement of a major, internationally recognized award or, in the alternative, that the record satisfies at least three of the 10 initial evidentiary criteria. The matter is now before us on appeal pursuant to 8 C.F.R. § 103.3.

The Petitioner bears the burden of proof to demonstrate eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010). We review the questions in this matter de novo. *Matter of Christo's, Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015). Upon de novo review, we will withdraw the Director's decision and remand the matter for entry of a new decision consistent with the following analysis.

A petitioner may establish prima facie eligibility as an individual of extraordinary ability either by demonstrating receipt of a one-time achievement of a major, internationally recognized award or, in the alternative, that at least three of the 10 initial evidentiary criteria provided at 8 C.F.R. § 204.5(h)(3), implementing section 203(b)(1)(A) of the Act. The Director concluded that the record did not establish that the Petitioner received a one-time achievement of a major, internationally recognized award. The Director further concluded that the Petitioner did not "articulate what evidence was being submitted for consideration under each of the 10 criterion [sic]" and, consequently, that the Director "is unable to determine what criterion the [P]etitioner is attempting to meet." On appeal, the Petitioner asserts that, at the time of the Director's decision, the record articulated at least three initial evidentiary criteria and supporting evidence through which he believes he qualifies for the requested classification.

We have reviewed the record in its entirety. The brief the Petitioner submitted in response to the Director's request for evidence (RFE) both asserts that the record establishes eligibility under at least

three of the 10 initial evidentiary criteria provided at 8 C.F.R. § 204.5(h)(3), and it articulates what evidence the Petitioner believes satisfies the respective criteria. The RFE response brief specifically states that the record “satisfie[s] the first criterion, receipt of a lesser nationally or internationally recognized prize or award,” and it discusses evidence the Petitioner believes satisfies that criterion. The RFE response brief also indicates, “The fifth criterion has also been met,” referencing “Tabs 5, 13, and 16 of the original documents.” The RFE response further asserts, “[the Petitioner] also satisfies the criterion for the ninth category as evidence by his executive sales positions,” again referencing “Tabs 5, 13, and 16 of the original documents list” and “Tab 34.” Accordingly, we withdraw the Director’s conclusion that the Petitioner did not articulate what evidence was being submitted for consideration under at least three of the 10 initial evidentiary criteria provided at 8 C.F.R. § 204.5(h)(3).

Based on the foregoing, we will remand the matter for the entry of a new decision. The Director may request any additional evidence considered pertinent to the new determination regarding whether the record satisfies at least three of the 10 initial evidentiary criteria provided at 8 C.F.R. § 204.5(h)(3), and any other issue. As such, we express no opinion regarding the ultimate resolution of this case on remand.

ORDER: The Director’s decision is withdrawn. The matter is remanded for the entry of a new decision consistent with the foregoing analysis.